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Written statement* submitted by International-Lawyers.Org, the Arab Organization for Human Rights, the General Arab Women Federation, the Indian Movement "Tupaj Amaru", the International Organization for the Elimination of All Forms of Racial Discrimination, the Organisation Mondiale des associations pour l'éducation prénatale, the Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., the World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Torture a real human rights challenge in Iraq

Introduction

Today, the increasing threat of ISIS brings back the interest of the international community to Iraq. As the light is re-shed on Iraq, challenges within the society resurface.

A key human rights challenge that exists in Iraq is the continued widespread use of torture within the prison system. This is an issue that we (NGO's Signatories to this statement) have collected extensive evidence about and repeatedly brought to the attention of the United Nations Human Rights Council (HRC).

Background

Iraqi authorities continue to use systemic torture despite the fact that Iraq has ratified the Convention Against Torture in 2011. Reports of torture within Iraqi prisons are well documented.

The UPR session of 2010 and 2014 highlighted the failure of the Iraqi government to implement their commitments. We, emphasize that the significance exists in governmental action that ensures the implementation of prohibitions against torture rather than the sole presence of a law.

Initially, the U.S. and coalition forces practiced torture during the 2003 war, this phenomena prevails today as a result of its implementation then.

The present day threat of ISIS forces the international community to turn a blind eye on Iraqi authorities' questionable actions as long as the activity is under the context of combatting terrorism in general and ISIS in specific. Hence, the authorities are empowered to use the infamous Article 4 of Iraqi Anti-terrorism law of 2005 on secterian and political basis. [1]

It is worth mentioning that, torture in Iraq is used by a variety of entities (police units, security forces, intelligence services and the army) all of which practice large-scale abduction and torture. Additionally, over 50 militia groups exist in Iraq, all with same capability as state actors. The numerous numbers of actors, makes it impossible to determine a chain of command and allocate a single responsible entity.

We, believe that the on-going problem of torture and related acts require a concerted international effort for elimination, an independent, unbiased judicial authority and a targeted strategy that pressurises the government.

Enhanced Interrogation techniques.

British Special Forces developed in 1971 Enhanced interrogation techniques (EITs). These involve five practices: hooding, wall standing; sleep deprivation, food and water shortage and subjection to noise. The use of such techniques is said to cause depression, hallucinations, loss of consciousness and long term psychological trauma. However, British forces and subsequently American saw them as neither cruel nor humane and therefore not classified as torture.

Since 2006 the Iraqi government conducted several campaigns to arrest those suspected of terrorist activities. Suspects are commonly transported to unknown detentions sites/prisons where EITs are used to extract wrongful information that is later use to convict them.

The Convention against Torture

Article 1 of the convention, outlines and defines torture, a definition obviously ignored currently by the Iraqi government and in the past by the U.S. and its allies.

Another key aspect of the convention was that it prohibits torture in all circumstances, Article 2. An article that was continuously ignored by U.S. authorities as the United States Department of Justice authorized EITs before the invasion of Iraq on the pretext that the convention's articles do not apply on interrogations carried outside the geographical jurisdiction of the U.S.

The decisions have since been reversed but we highlight that they played a key role in the in the establishment and entrenchment of torture practices within Iraq's Security Forces and prison system, especially at the notorious Abu Ghraib prison.

Baha Mousa

[1] Article 4 of Law no 13 of 2005, stipulates 50 different acts as terrorist activities. And allows for enhanced interrogation methods of those suspected of belonging to terrorist groups.

Baha Mousa, a hotel receptionist in Basra, Iraq, was arrested by British troops on 14 September 2003 and 36 hours later he was dead.[2]
The five EITs were applied to Mr Mousa,. His death came after sustaining 93 injuries including fractured ribs and broken bones. The subject was hooded for 24 hours of his total detention period.
His death challenges the notion that EITs are somehow less than torture. In fact, Baha Mousa's death is an excellent example of why such a minutia distinctions are fundamental when it comes to torture.

Abu Gharib

Baghdad central prison aka Abu Gharib is one of the world's most blatant detention centres. The prison was famous for torture, executions and poor inmate conditions.
The prison came under the authority and control of the U.S. military. Most prisoners kept there under American supervision were either: common criminals, detainees suspected of actions against the US troops and its coalition and a number of high value detainees (HVD).
In 2004 an extensive prison investigation was authorized. The report showed severe institutional failings. The investigation brought to light numerous cases of sadistic criminal abuses towards inmates.
The report further outlined that over 60% of civilian inmates at Abu Gharaib were deemed not be a threat to society, yet they were never released. This is a clear violation of the fourth Geneva Convention.
Ricardo Sanchez, a Lieutenant General and senior military officer in Iraq, authorized the use of dogs, extreme temperatures, and sensory deprivation for interrogation at Abu Ghraib.[3] Rumsfeld and the Pentagon dispute the claim yet, it is difficult to visualize a situation that did not include the knowledge of Washington.

Ali Shalal

Born Ali Shalal Abbass Al Qaiysi, he became a global symbol of the depravity of Abu Ghraib after the release of the famous hooded man photograph. [4] Mr Shalal's case shows the extent to which prisoners were tortured and deprived of their human dignity.
Mr Shalal, was transferred to Abu Gharaib a day following his arrest. The subject spent 6 at the detention venue mentioned above; during which he was brutally tortured and subjected to witnessing other inmates' torture sessions.
EITs composed the torture plan that Mr.Shalal was exposed to. To out surprise, various members of the prison staff raped Mr.Shalal.
Detainees were forced to sign documents that they would not speak with media or attempt to bring court cases. Many never made it out to even tell their stories to anyone. Fortunately, Mr.Shalal did.

Recommendations and Steps Forward

It is clear from the vast evidence that torture is a problem that must be tackled in Iraq. What we see in Iraq today is a remnant of the war and the subsequent occupation. Therefore, we see the need for collective international effort to put and end to current actions of the Iraqi government while simultaneously, holding the U.S. and coalition states accountable for actions committed during the occupation.
We, NGOs Signatories to this statement recommend:

- Relevant UN bodies open an investigation into allegations of torture by coalition troops and contracted troops during the 2003 war and subsequent occupation with a view to provide answers to families and hold those accountable responsible for their actions

- The international community undertakes all measures to ensure that Iraq abides by its international obligations and ends the use of torture once and for all

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[2]Williams, AT. "The Brutal Death of Baha Mousa." *The Guardian*. N.p., 3 May 2013. Web. 17 July 2015. <http://www.theguardian.com%2Fbooks%2F2013%2Fmay%2F03%2Finvestigate-brutal-death-baha-mousa>.

[3]Smith, R. Jeffrey. "General Granted Latitude At Prison." *The Washington Post*. N.p., 12 June 2004. Web. 17 July 2015. <http://www.washingtonpost.com%2Fwp-dyn%2Farticles%2FA35612-2004Jun11.html>.

[4] GICJ's most recent update from Mr. Ali Shalal came on 16 July 2015. Mr. Shalal corroborated once again the testimony he had provided on previous occasions as to the forms of torture he underwent and those who were responsible for it. We have included that information in this section.

- All UN bodies should seek and encourage the appointing of a Special Rapporteur for the human rights situation in Iraq

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The BRussells Tribunal, Arab Lawyers Association- UK, Geneva International Centre for Justice (GICJ), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), The Iraqi Commission on Human Rights (ICHR), Women Will Association (WWA), Organization for Widows and Orphans (OWO), Ikraam Center for Human Rights, Belgian Peace Movement, Ligue camerounaise des droits de l'homme, International Coalition against War Criminals (ICAWC), Medical Aid for the Third World, Association of Iraqi Diplomats (AID), General Federation of Iraqi Women (GFIW), Association of Iraqi Intellectuals and Academics, The International Network of Arab Human Rights NGOs, The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, Human Rights Defenders in Iraq (AHRDI), Centre for Human Rights and Democracy, The Iraqi Centre for Human Rights, Association, Organisation for Justice & Democracy in Iraq (OJDI), NGOs without consultative status, also share the views expressed in this statement.